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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,975	01/29/2004	Yoshiyuki Miyagawa	P24672	2821

7055 7590 12/04/2008

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EXAMINER	
COBURN, CORBETT B	
ART UNIT	PAPER NUMBER
3714	

NOTIFICATION DATE	DELIVERY MODE
12/04/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/765,975	MIYAGAWA ET AL.	
	Examiner	Art Unit	
	Corbett B. Coburn	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *09 July 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-10* is/are pending in the application.

4a) Of the above claim(s) *3 and 8* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1, 2, 4-7, 9 & 10* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1, 2, 4-7, 9 & 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deering (US Patent Number 6,313,838).

Claims 1 & 7: Deering teaches forming a plurality of frame images constituting the video game sequentially and displaying the plurality of formed frame images by switching the frame images from a frame buffer. Deering teaches predicting formation time periods of said plurality of frame images when said frame images are individually formed. (Col 3, 53-60) Deering teaches determining game progress to be made by said frame images, in dependence upon the formation time periods of said frame images, as predicted. Deering teaches a constant frame rate. Therefore, the game progress is dependent on the amount of time that it takes to form the image (i.e., the frame rate). Deering teaches use of the system in video games. Video games inherently include changing said determined game progress (i.e., character movement rates or direction) in response to an operation input by a player.

The choice of rate of tempo of game music, rate of formation of frame images & determined game progress depending on the command issued in a video game is a matter of design choice that is well within the level of ordinary skill in the art.

Claims 2 & 7: The predicted formation time periods of said plurality of frame images are expressed in units of a frame image display period of a shortest period of switching display of said frame images – i.e., the frame rate.

Claims 4, 5, 9 & 10: Examiner considers the predetermined clock signal of claims 4, 5, 9 & 10 to refer to the video synchronization signals that are inherent in video monitors.

Response to Arguments

3. Applicant's arguments filed 9 July 2008 have been fully considered but they are not persuasive.

4. Applicant challenges Examiner assertion that it is well within the level of ordinary skill to speed up or slow down the tempo of actions on a screen or music in response to a user input. Anyone who has ever programmed a loop with a counter (which includes all programmers) could implement the following routine:

```
While the game is executing
{
        Read Input;
        If Input = Fast Motion Button
        {
                Counter = 10;
        Else
                If Input = Slow Motion Button
                {
                        Counter = 1000;
                 Else
                        {Counter = 100; }
                }
        }
```

```
        For Delay = 1 to Counter
        { Increment Delay;}
        Show Movement;
        Beep;
}
```

5. This is a simple little program that would be well within the level of ordinary skill. It reads the input & sets a delay counter based on that input. It then loops through a delay then shows movement & beeps. If the input is for fast motion, the counter is set to 10 & the delay is very short. If the input is for slow motion, the delay is 100 times as long as it is for fast motion.

6. Such a construct is certainly within the level of ordinary skill. It could, in fact, be implemented by anyone who is taking his very first programming course in school. Furthermore, Examiner cited at least two patents Slye et al. (US Patent Number 5,261,820) & Asai et al. (5,779,584) that show that these features were well known & within the level of ordinary skill at the time of Applicant's invention. Given these facts, no one can seriously argue that the claimed features were not easily within the level of ordinary skill.

7. As previously noted, game tempo & music tempo are design considerations. A game programmer must determine how the display and music will react to any player input – that is the essence of game design. Applicant has merely claimed that in response to specific player inputs, the videogame behaves in a specific way. This is exactly what any game designer would have to do.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corbett B. Coburn whose telephone number is (571) 272-4447. The examiner can normally be reached on 8-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Corbett B. Coburn/
Primary Examiner
Art Unit 3714